

JAN 25 2010

CASHIER'S SECTION  
OPERATOR

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

DOCKETED COMPLAINT NO. 09-012

DWAYNE ALAN ANDREWS  
TX-1335536-R

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**AGREED FINAL ORDER**

On this the 12 day of Feb, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Dwayne Alan Andrews, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Dwayne Alan Andrews neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent, Dwayne Alan Andrews, is a state certified residential real estate appraiser, holds certification number TX-1335536-R, and has been certified by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§ 153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about April 26<sup>th</sup>, 2006, the Respondent appraised real property located at 27013 Masters Parkway, Spicewood, Texas 78669 ("the property").
4. On or about September 29<sup>th</sup>, 2008, the Complainant, Deloris Kraft-Longoria, filed a staff-initiated complaint with the Board based on allegations that the Respondent had produced an appraisal report that contained various deficiencies.
5. On or about October 21<sup>st</sup>, 2008, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent failed to identify and report the improvement(s) description adequately;
- b) Respondent failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;
- c) Respondent failed to use an appropriate method or technique to determine site value and provided no support for this determination;
- d) Respondent failed to collect, verify, analyze, and reconcile the cost new of improvements in his cost approach, did not provide support for his site value determination and did not employ recognized methods and techniques correctly in his cost approach;
- e) Respondent failed to employ recognized methods and techniques correctly in his sales comparison approach and did not collect, verify, analyze and reconcile comparable sales data adequately;
- f) Respondent failed to analyze the listing history and contract of sale for the property; and,
- g) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

7. Respondent omitted material facts in his appraisal report as detailed above.

## CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (conduct provisions); USPAP Standards: 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); and 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by omitting material facts from his appraisal report.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Have his certification suspended for twelve months with this suspension being fully probated under the following conditions:
  - i. During the entire probated, twelve month suspension period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of this period of probation within the twenty days of notice of any such request;
- b. Pay to the Board an administrative penalty of \$500.00;
- c. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- d. Attend and complete a minimum, 15 classroom-hour course in the Cost Approach; and,
- e. Attend and complete a minimum, 7 classroom-hour course in mortgage fraud
- i. No examination shall be required for this course; and,
- f. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY DAYS** of the date of this Agreed Final Order.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for

by TEX. OCC. CODE § 1103.518, including, but not limited to, revocation of the above-noted probation and imposition of the suspension.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

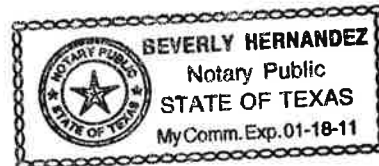
Signed this 22 day of January, 2010.

  
DWAYNE ALAN ANDREWS


SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 22 day of January, 2010, by DWAYNE ALAN ANDREWS, to certify which, witness my hand and official seal.

  
Notary Public Signature

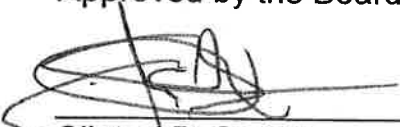
Beverly Hernandez  
Notary Public's Printed Name



Signed by the Commissioner this 12 day of Feb, 2010.

  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 12 day of Feb, 2010.

  
Clinton P. Sayers, Chairperson  
Texas Appraiser Licensing and Certification Board